

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTHEW McCASKILL,

Plaintiff,

v.

9:14-CV-0192
(GTS/DEP)

M. CALDWELL, Deputy Superintendent of Sec.;
ANTHONY J. ANNUCCI, Acting Comm'r;
and JOSEPH BELLNIER, Deputy Comm'r,

Defendants.

APPEARANCES:

MATTHEW McCASKILL

Plaintiff, *Pro Se*
40 Saint Mark Place
Brooklyn, New York 11217

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Defendants

The Capitol
Albany, New York 12224

GLENN T. SUDDABY, Chief United States District Judge

OF COUNSEL:

JUSTIN L. ENGEL, ESQ.
Assistant Attorney General

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Matthew McCaskill (“Plaintiff”) against the three above-captioned New York State correctional employees in their official capacities (“Defendants”) arising from a disciplinary hearing while Plaintiff was an inmate at Riverside Correctional Facility, are Defendants’ motion for summary judgment and United States Magistrate Judge David E. Peebles’ Report-Recommendation recommending that Defendants’ motion be granted based on Eleventh Amendment immunity. (Dkt. Nos. 32, 39.) Plaintiff has not filed an Objection to the Report-Recommendation, and the

deadline by which to do so has expired. (*See generally* Docket Sheet.) When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition.

When performing such a review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*¹ After carefully reviewing the relevant papers in this matter, the Court can find no clear-error in Magistrate Judge Peebles’ thorough Report-Recommendation: Magistrate Judge Peebles employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein. (Dkt. No. 39.)

To those reasons, the Court adds only that, as pointed out by Defendants in their reply memorandum of law (Dkt. No. 37), because Plaintiff failed to specifically respond to either the properly supported facts asserted in Defendants’ Statement of Material Facts or the facially meritorious legal arguments asserted in Defendants’ memorandum of law despite receiving specific notice of the consequences of those failures (Dkt. No. 32, at 4), Plaintiff has lightened Defendants’ burden on their motion,² which they have easily met.

¹ See also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

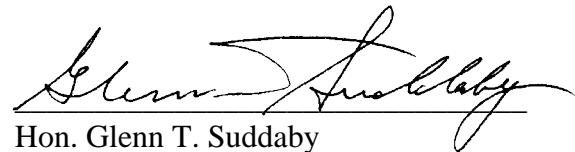
² N.D.N.Y. L.R. 7.1(b)(3); *Rusyniak v. Gensini*, 07-CV-0279, 2009 WL 3672105, at *1, n.1 (N.D.N.Y. Oct. 30, 2009) (Suddaby, J.) (collecting cases); *Este-Green v. Astrue*, 09-CV-0722, 2009 WL2473509, at *2 & nn.2, 3 (N.D.N.Y. Aug. 7, 2009) (Suddaby, J.) (collecting cases).

ACCORDINGLY, it is

ORDERED that Magistrate Judge Peebles' Report-Recommendation (Dkt. No. 39) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further
ORDERED that Defendants' motion for summary judgment (Dkt. No. 32) is **GRANTED**; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED with prejudice**, and the Clerk of the Court shall enter Judgment for Defendants and close this action.

Dated: February 25, 2016
Syracuse, New York


Hon. Glenn T. Suddaby
Chief U.S. District Judge